



Jim Justice
Governor of West Virginia

May 21, 2018

Via First Class US Mail
West Virginia Ethics Commission
210 Brooks Street, Suite 300
Charleston, West Virginia 25301

Re: Request for Advisory Opinion Regarding Proposed New Tax Increment Financing Project Plan
For Greenbrier County TIF District No. 1 (White Sulphur Springs)

Dear Commissioners:

Based on the facts and circumstances described below, what steps, if any, should be taken to ensure that the West Virginia Governmental Ethics Act, Chapter 6B of the Code of West Virginia, 1931, as amended (the "Ethics Act"), will not be violated? As the Ethics Commission may know, I and/or members of my family own, either individually or through ownership interests in various other entities, or have a controlling interest in the following companies: (i) The Greenbrier Sporting Club Development Company, Inc. (the "Development Company"); (ii) The Greenbrier Resort (the "Greenbrier Resort"); and (iii) The Greenbrier Sporting Club, Inc. (the "Sporting Club" and collectively with the Development Company and the Greenbrier Resort, the "Greenbrier Companies"). There is a new Tax Increment Financing project plan that is being pursued that will greatly benefit the people of Greenbrier County and The Greenbrier properties as well.

Tax Increment Financing Generally

The West Virginia Tax Increment Financing Act (W.Va. Code §7-11B-1 *et. seq.*) (the "TIF Act"), permits the capture of 100% of the increases in property tax revenue gained by developing a discrete geographic area and the use of such increase to finance development or redevelopment projects. Section 8 of the TIF Act sets forth the requirements for a development or redevelopment district project plan, which include a cost-benefit analysis showing the economic impact of the project plan on each levying body and the impact on the economy if the project plan is not completed. The basic intent of tax increment financing is to leverage future increases in tax revenue to fund current projects with the result being a higher property tax revenues to the levying bodies after development or redevelopment district is terminated. No development or redevelopment district may be in existence for more than 30 years as provided in Section 10 of the TIF Act.

The TIF District

As permitted under the TIF Act, the County Commission of Greenbrier County (the "County Commission") (i) created a Tax Increment Development/Redevelopment project area or district that includes substantially all of the White Sulphur Magisterial District and is known as the "Greenbrier County TIF District No. 1 (White Sulphur Springs)" (the "TIF District") and (ii) approved a Project Plan for the TIF District entitled "White Sulphur Springs TIF District Project # 1" (the "Original Project Plan"). The Original Project Plan included the construction and equipping of a new wastewater treatment plant for the City of White Sulphur Springs (the "City"), the construction and equipping of improvements to the City's existing wastewater treatment (the "Original TIF Projects") plant. The County Commission financed the costs of constructing and equipping the Original TIF Projects through the issuance of Tax Increment Revenue Bonds. The two largest taxpayers in the TIF District are the Greenbrier Resort and the Sporting Club. As noted in the County Commission's Official Statement dated December 17, 2013, the primary economic engine within the TIF District is the development and related tax increment revenues generated by the Sporting Club. Although the tax increment revenues generated by the Sporting Club funded the Original TIF Projects, the Greenbrier Companies have not received any direct benefit from the TIF District to date. The Original TIF projects would not have been possible but for the development of The Greenbrier Sporting Club. In addition to funding these projects, more than 300 new jobs were created to run the club, build homes and service the membership.

As described below, the Development Company and the City are planning to submit a proposed Project Plan Application to the County Commission in accordance with the TIF Act. The development planned by the Development Company and other Greenbrier Companies will not occur without the ability to utilize funding from Tax Increment Revenue Bonds issued by the County Commission or tax increment revenues paying for a portion of the project on a pay-as-you-go basis. If such development does not occur, the County Commission and the other levying bodies will not realize the increase in property taxes resulting from the planned development after the TIF District terminates, which at its latest would be December 14, 2034. In addition to the loss of future property taxes, an estimated 92 permanent and 20 temporary jobs will not be created if this project does not move forward.

The Proposed TIF Projects

Infrastructure for Valley Floor Development

Following the flood which occurred in Greenbrier County in the summer of 2016, new valley floor land became available for development. Design work, which is being funded from private sources, is currently under way for planned improvements on this site. The Development Company currently anticipates requesting that the County Commission issue Tax Increment Revenue Bonds to fund \$3.5M in site preparation, \$3.5M in road improvements and utility extensions, and \$1.5M in water system improvements related to the planned valley floor development. In addition to the improvements that would be funded by Tax Increment Revenue Bonds, it is anticipated that over \$100M of vertical development funded through private sources will take place on the site.

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Site Work and Infrastructure for Replacement Laundry Facility

The Greenbrier Resort's laundry facility was removed during the construction of the new Center Court at Creekside tennis stadium. Since that time, laundry has been trucked to Virginia, processed and returned to the Greenbrier Resort. Establishing a new laundry facility on the property is anticipated to create approximately 27 new jobs. The cost of this facility is \$5M and the site is shovel-ready. The Development Company currently anticipates requesting that the County Commission issue Tax Increment Revenue Bonds to fund approximately \$1M of the site preparation, road improvements, and utility extensions which are needed in connection with this facility.

Kate's Mountain Ski Area

For many years, the Greenbrier Companies have been considering a ski area on Kate's Mountain. In 2013, the Justice family purchased over 3,000 acres of Kate's Mountain for over \$10 million as a first step toward this project. SE Group, the top ski-mountain design firm in the United States, was retained to design a ski mountain that would include lifts, a fully automated snow-making system, approximately 240 skiable acres of terrain (20% greater than the size of Snowshoe), a base lodge and on-mountain restaurants. To make this project possible, improvements to - or replacement of - the bridge over the railroad tracks at the entrance to Kate's Mountain Road, as well as improvements to the intersection, will be required. In addition, The Greenbrier Gun Club would need to be relocated. This ski area would also contain a residential component (home and condos) that will greatly benefit the area in the wintertime, in addition to increasing the tax base and bed tax revenue. The total cost of this ski area is in excess of \$100 million and is anticipated to be built in phases. The Greenbrier Companies are requesting the utilization of approximately \$500k or more of the remaining available proceeds of Tax Increment Revenue Bonds requested to be issued by the County Commission or "pay as you go" funds from the TIF District to finance start-up costs for the ski area (roads, bridges, utilities, etc.).

Other Proposed TIF Projects

The Development Company and the City of White Sulphur Springs are planning to propose a new project plan for the TIF District (the "New Project Plan"). In addition to the projects described above, the New Project Plan would propose funding approximately \$1.5M of repairs to water lines in the City's waterworks system and approximately \$3.0M of sewer line extensions to connect the town of Caldwell to the City's wastewater treatment plant. The city of White Sulphur Spring currently loses more than 60% of their treated water through leaks. Repairing these leaks would be allow for more service and be better for the environment. Caldwell currently does not have a connection to the wastewater treatment plant. This is an environmental issue and a deterrent to development in this area. The connection to Caldwell to the wastewater plant would great benefit those residents and all who use the Greenbrier River for recreation. The Project Plan would require the approval of the County Commission and the Executive Director of the West Virginia Development Office (the "Executive Director") as provided in the TIF Act.

Requested Advisory Opinion

I respectfully request that the West Virginia Ethics Commission issue an advisory opinion pursuant to Article 2, Section 3 of the Ethics Act as to whether the facts and circumstances above would give rise to a violation of the Ethics Act if the County Commission and the Executive Director were to approve the New Project Plan for the TIF District and if the County Commission were to issue Tax Increment Revenue

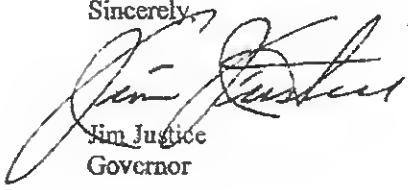
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Bonds or other obligations under the TIF Act or utilize tax increment revenues of the TIF District on a "pay as you go" basis to finance costs of the projects described above. Please also consider that the County Commission may enter into a Development Agreement or other contract with one or more of the Greenbrier Companies to carry out the development of all or a portion of the TIF Projects.

As previously stated, I and/or members of my family own, either individually or through ownership interests in various other entities, or have a controlling interest in the Greenbrier Companies. Additionally, some of the proposed projects described above would be constructed on properties which are owned by certain of the Greenbrier Companies and such properties and the Greenbrier Companies which own such properties would stand to benefit from the construction of such TIF Projects on the properties. However, the real winner would no doubt be the residents of Greenbrier County by significant increase in tax revenue and jobs. As indicated above, the Executive Director is responsible under the TIF Act for approving or disapproving the New Project Plan if the same is submitted by the County Commission to the Executive Director for consideration of approval. The Executive Director is appointed to such position by the Governor of West Virginia and serves at the will and pleasure of the Governor.

I appreciate your consideration of this request. Please feel free to contact me if any additional information is needed in connection with this request for an advisory opinion.

Sincerely,


Jim Justice
Governor